

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

HAROLD WILLIAM VAN ALLEN,
Plaintiff

v.

**CHIEF JUDGE OF THE FIRST
CIRCUIT, ET AL,**
Defendants

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CASE NO. 1:20-CV-0534- LY-SH

**REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

TO: THE HONORABLE LEE YEAKEL
UNITED STATES DISTRICT JUDGE

Before the Court is Plaintiff Harold William Van Allen's Complaint. Dkt. 1. The Court submits this Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), Federal Rule of Civil Procedure 72(b), and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas.

I. Background

On May 18, 2020, the Court ordered Plaintiff to submit either the Court's \$400 filing fee or a completed application to proceed *in forma pauperis* within thirty days. Dkt. 3. The Court also warned Plaintiff that failure to comply with the Court's Order would result in the Court recommending that his case be dismissed. *Id.* Plaintiff has failed to pay the required fee or submit an application to proceed *in forma pauperis*.

A district court may dismiss an action *sua sponte* for failure to prosecute or to comply with any order of court under Federal Rule of Civil Procedure 41(b). *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988). Because Plaintiff has failed to abide by a Court Order and to prosecute his case, this lawsuit should be dismissed.

II. Recommendation

The undersigned therefore **RECOMMENDS** that the District Court **DISMISS** Harold William Van Allen's lawsuit without prejudice pursuant to Rule 41(b).

III. Warnings

The parties may file objections to this Report and Recommendation. A party filing objections must specifically identify those findings or recommendations to which objections are being made. The District Court need not consider frivolous, conclusive, or general objections. *See Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987). A party's failure to file written objections to the proposed findings and recommendations contained in this Report within fourteen (14) days after the party is served with a copy of the Report shall bar that party from de novo review by the District Court of the proposed findings and recommendations in the Report and, except on grounds of plain error, shall bar the party from appellate review of unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *See* 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 150-53 (1985); *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc).

SIGNED on July 20, 2020.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE